

**Plaintiff Lazare Kaplan International Inc.'s
Deposition Designations for Philippe Loral
2/16/2016**

TextMap Annotation Digest Report

Case Name: Plaintiff Lazare Kaplan International Inc.'s Deposition Designations for Philippe Loral 2/16/2016

Transcript: [9/28/2015] Loral, Philippe

Issue Filter: Depo Designation

Pg: 7 Ln: 8 - 12

Annotation:

7: 8 Q. Okay. Good morning, Mr. Loral.
9 My name is Chris Sullivan. I'm with
10 the law firm of Herrick Feinstein, and
11 we represent the Plaintiff in this
12 case, Lazare Kaplan International.

Pg: 10 Ln: 4 - Pg: 11 Ln: 8

Annotation:

10: 4 Q. For convenience sake, I'm going
5 to use some abbreviations in the course
6 of today's deposition.
7 I'm going refer to Lazare Kaplan
8 International, Inc. as Lazare; to
9 Antwerp Diamond Bank as ADB; to the New
10 York office of Antwerp Diamond Bank, as
11 ADB New York or New York office; to KBC
12 Bank, NV, as KBC. Do you understand all
13 of that?
14 A. Yes.
15 Q. Okay. And unless I specify
16 otherwise or you specify otherwise, the
17 relevant period of time for the
18 questions I'm going to ask you is
19 January 1, 2000 through December 31,
20 2010. Do you understand that?
21 A. Yes.
22 Q. Okay. Are you appearing
23 voluntarily for today's deposition?
24 A. Yes.
25 Q. Are you under a contractual
11: 1 obligation of any kind with either ADB
2 or KBC?
3 A. No.
4 Q. Why are you appearing
5 voluntarily today?
6 A. Because I don't think I can
7 refuse to appear, according to -- I'm
8 not a lawyer, so I mean...

Pg: 12 Ln: 9 - 22

Annotation:

12: 9 Q. What languages do you speak,
10 Mr. Loral?
11 A. I speak Dutch, French and my
12 third language is English, but my
13 mother language is French and Dutch.
14 Q. Are you currently employed?
15 A. No.

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Pg: 12 Ln: 9 - 22 continued...

Annotation:

12:16 Q. And were you previously employed
17 by ADB?
18 A. Yes.
19 Q. Were you employed by ADB during
20 the relevant period of time from
21 January 1, 2000 to December 31, 2010?
22 A. Yes.

Pg: 19 Ln: 14 - Pg: 21 Ln: 16

Annotation:

19:14 Let's talk about ADB. What was
15 your position or job title at ADB
16 during the relevant period of time?
17 A. I was Senior Vice President and
18 I was head of International Division,
19 then it changed to head of the American
20 Business that we did and then later --
21 I think, the relevant period goes still
22 2010?
23 Q. December 31, 2010.
24 A. I think maybe just at that time
25 I changed I became Global Relation
20: 1 Manager. I don't remember exactly. It
2 could be beginning of 2011, but it
3 should be around the time.
4 Q. And what were your
5 responsibilities in those various
6 positions that you held?
7 A. Well, in the first and second
8 position, in fact, my job was to create
9 business outside of Belgium, in diamond
10 business. Our bank was that
11 specialized in diamond business doing
12 only financing of diamonds, companies
13 but in Antwerp we were saturated so the
14 idea was to go to other diamond centers
15 and first started with New York and I
16 did the same in Hong Kong and I helped
17 to open a branch in Bombay, etcetera.
18 In the next stage, when the
19 branches and the rep offices became
20 bigger, I was concentrated to New York.
21 So then I was responsible for New York,
22 and then much later when I was Global
23 Region Manager I was responsible for
24 the multinational relations with the
25 clients. We had, let's see, about 20
21: 1 large clients with offices in every
2 diamond center in the world and I was

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Pg: 19 Ln: 14 - Pg: 21 Ln: 16 continued...

Annotation:

21: 3 managing the relations with those
4 clients.
5 Q. Do I understand correctly that
6 you helped set up the New York office
7 of ADB?
8 A. Yes.
9 Q. And when was that office first
10 set up?
11 A. My first trip to New York was in
12 December, '97 for that purpose, and we
13 obtained a license only in December,
14 '99, which permitted us -- I mean, you
15 know, that we had a license of
16 representative office.

Pg: 22 Ln: 1 - Pg: 24 Ln: 6

Annotation:

22: 1 How many people worked in the
2 office during that period of time?
3 A. Well, when we started, only one.
4 Q. Who was that?
5 A. You have to understand, as long
6 as we did not have a license we
7 operated in New York. We, I mean, we
8 informed New York State Banking
9 Department and the Federal Reserve and
10 we did offshore lending out of Belgium
11 and we would travel. The day that we
12 got the license, Peter Driesen got
13 title of head of the representative
14 office he moved to New York. So that
15 was beginning of 2000 -- yes, yes,
16 beginning of 2000.
17 Q. And apart from Mr. Driesen, who
18 were the other people who worked in the
19 New York office of ADB?
20 A. Later on we had Marc Weiss and
21 Diana David.
22 Q. Anybody else?
23 A. We hired -- yes, we hired much
24 more people, but we never had more than
25 five people together. I recall, of
23: 1 course, Oakley Champine, we had --
2 well, the names I don't even remember.
3 I know we had account officers
4 who stayed a few months, didn't
5 succeed. Andy Rogow -- yes, Andy Rogow
6 took over from Peter Driesen. Peter
7 was the head of the representative

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Pg: 22 Ln: 1 - Pg: 24 Ln: 6 continued...

Annotation:

23: 8 office. So Peter was the first hit,
9 when Peter left Andy took over, when
10 Andy left Marc Weiss took over as the
11 head of the representative office.
12 Q. What was that chain of command
13 in the New York office of ADB?
14 A. Well, for the American
15 authorities Peter or Andy or Marc were
16 the head of the representative office
17 they reported to Head Office. I was
18 responsible for those people. So they
19 reported to me, and I reported to the
20 Executive Committee of the bank.
21 Q. So is it fair to say you were in
22 charge of the New York office?
23 A. Yes.
24 Q. Did any of the people you named
25 work on the Lazare banking relationship
24: 1 with ADB?
2 A. I would say all of them. We were
3 so small that we tried to involve
4 everybody and everything.
5 Q. And did they all report to you?
6 A. Yes.

Pg: 24 Ln: 19 - Pg: 25 Ln: 24

Annotation:

24:19 Q. And what were your overall
20 responsibilities in regard to the New
21 York office of ADB?
22 A. In the beginning, everything. In
23 the beginning it was going to -- to the
24 authorities to see which type of
25 license we could get, make a business
25: 1 plan to see which size we could have as
2 a business volume, see what the IRS,
3 how it would work withholding taxes,
4 hire people, prospecting of clients,
5 and whenever it start moving we needed
6 people to -- and the first thing I
7 would, of course, outsource was the
8 clients. And so whenever I hired Peter
9 Driesen, I told him to manage the
10 clients, but I would always be involved
11 in the clients, and the big clients I
12 would meet every time I would come to
13 New York.
14 Q. So were you familiar with the
15 clients in the New York office?

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Pg: 24 Ln: 19 - Pg: 25 Ln: 24 continued...

Annotation:

25:16 A. Yes.
17 Q. And did you have access to the
18 -- to the bank's records of the banking
19 activities of those clients?
20 A. Yes.
21 Q. Were you aware of the
22 transactions that were executed in New
23 York for those clients or customers?
24 A. Yes.

Pg: 26 Ln: 5 - Pg: 27 Ln: 13

Annotation:

26: 5 Q. And what were your
6 responsibilities with respect to the
7 Lazare credit facility?
8 A. Let's say that I consider him as
9 a larger client, so I was directly
10 involved.
11 Q. When you say "him" you mean
12 Lazare?
13 A. Yes. Lazare, yes, yes. Of
14 course the group, yes.
15 Q. And in the course of your duties
16 did you communicate with anyone at
17 Lazare?
18 A. Yes.
19 Q. With whom did you communicate?
20 A. Mostly with Moryto, the CFO, but
21 I met on a regular basis Leon
22 Templesman and sometime for special
23 projects also other people.
24 Q. And did you ever visit Lazar's
25 offices in Manhattan?
27: 1 A. Very often.
2 Q. Very often?
3 A. Yes.
4 Q. By yourself or with other
5 employees of ADB?
6 A. Both, both. In fact, my tactic
7 was to go together with an account of
8 his when there was work to do, so I
9 could do the negotiations and the
10 colleague would make the memos and the
11 representations. I would go alone
12 also, I mean, when it was not really
13 necessary to bring somebody.

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Pg: 28 Ln: 11 - Pg: 29 Ln: 3

Annotation:

28:11 Did anyone at KBC ever accompany
12 you on visits to Lazar's office?
13 A. Yes. As far as I can remember,
14 Greg Boston, because he was the
15 Operation Manager, he knew the special
16 projects and so on. Maaïke
17 Maeckelbergh was directly responsible
18 for opening the accounts and managing
19 the accounts at KBC. I think I
20 introduced once to Mr. Pipko, but I
21 forgot his name, somebody who could do
22 business directly with them because
23 they had to -- a kind of -- they had a
24 certain project I think with Russia
25 that they could -- that ADB would not
29: 1 do but KBC could be interested, so I
2 introduced but I forgot the name. We
3 can find it back.

Pg: 47 Ln: 24 - Pg: 49 Ln: 11

Annotation:

47:24 Q. Did you consider any particular
25 credits or loans to be part of the ADB
48: 1 New York portfolio?
2 A. Yes. Yes. But the New York -- in
3 fact, ADB Antwerp Head Office was given
4 credit in Antwerp, in New York, and in
5 Hong Kong because New York and Hong
6 Kong were Head Offices, so that was
7 offshore lending.
8 In Head Office Antwerp what we
9 did, we had in our bookkeeping,
10 business centers that we called
11 branches to measure the profitability
12 of New York of Hong Kong because the
13 expenses were different, etcetera. So
14 in that way, in the New York branch,
15 like we called it in Antwerp, we had
16 all the facilities of New York, the
17 profits, the expenses also and we could
18 measure the value of that branch.
19 Q. So approximately how large was
20 the New York office's loan portfolio?
21 A. It fluctuated a lot. It was not
22 big. It was -- it fluctuated a lot, it
23 was not very large and we had a lot of
24 competition.
25 It was growing fastly to around
49: 1 \$200 million credit facilities, with a

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Pg: 47 Ln: 24 - Pg: 49 Ln: 11 continued...

Annotation:

49: 2 debit of maybe 130, 140. We had a
3 peek, that I remember of around 270,
4 withdrawals 270 to 280. And then it
5 went down get and we became went
6 straight and we got competition.
7 So I would not say that it was
8 really a success, taking into account
9 expenses.
10 Q. And within that loan portfolio
11 what were the largest loans in size?

Pg: 49 Ln: 17 - Pg: 50 Ln: 1

Annotation:

49:17 A. I think the largest was 42, 43
18 million.
19 Q. And did you personally manage or
20 oversee those loans?
21 A. Yes. Yes.
22 Q. Were the loans to Lazare the
23 largest loans in the loan portfolio of
24 the ADB New York office?
25 A. Yes. As far as I can recall,
50: 1 yes. Yes.

Pg: 50 Ln: 2 - 15

Annotation:

50: 2 Q. In the course of your work at
3 ADB did you personally originate loans
4 to New York-based businesses?
5 A. Personally, no. I didn't have
6 the power to do so. It was always
7 group's work. The decisionmaking was
8 at ExCom, Executive Committee. In
9 fact, the Executive Committee had also
10 -- was also the Credit Committee, same
11 people different function. They would
12 decide about the credits, we would
13 advise, Credit Department would advise,
14 Head Office and then the decision would
15 be taken.

Pg: 53 Ln: 15 - 24

Annotation:

53:15 Q. Are you familiar with the ADB
16 pooling account at KBC New York?
17 A. Yes.
18 Q. Is there one pool in the account

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Pg: 53 Ln: 15 - 24 continued...

Annotation:

53:19 or more than one pool in the account,
20 by the way?
21 A. One.
22 Q. And was that always the case
23 during the relevant period of time?
24 A. Yes.

Pg: 58 Ln: 14 - Pg: 61 Ln: 12

Annotation:

58:14 Q. Did ADB have a Board of
15 Directors?
16 A. Yes.
17 Q. More than one board?
18 A. No.
19 Q. Did it have a Management Board?
20 A. Yes.
21 Q. Is it the same thing as the
22 Board of Directors?
23 A. The Management Board, I would
24 say, is the Executive Committee, the
25 three people from the Executive
59: 1 Committee. The Management Or Board
2 was, in fact, the Board of
3 Shareholders. We had only one
4 shareholder and in that Management
5 Board the CEO of the bank was also part
6 of, and the two members of the
7 Executive Committee.
8 Q. And did representatives of KBC
9 sit on the Board of Directors and/or
10 the Executive Committee?
11 A. On the Board of Directors.
12 Q. Okay. How many representatives
13 of KBC sat on the Board of Directors?
14 A. Honestly, I don't know exactly,
15 but I believe five.
16 Q. Did representatives of KBC sit
17 on the Credit Committee of ADB?
18 A. It's a bit more complex. KBC
19 took over our bank in 2000 or '99. So
20 there is a difference between before
21 and after. So I don't know exactly if
22 this matches with the relevant period.
23 So if your question is when KBC
24 was a full shareholder it's different
25 than when KBC was only a 37%
60: 1 shareholder.
2 Q. When you say it's different, are
3 you referring to whether

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Pg: 58 Ln: 14 - Pg: 61 Ln: 12 continued...

Annotation:

60: 4 representatives of KBC sat or how many
5 sat on the committee?
6 A. It was a different structure.
7 Q. Okay.
8 A. So before we had the Credit
9 Committee inside in the bank and a
10 representative of each shareholder
11 would come to that committee every
12 week. That way we had four
13 shareholders. The three banking
14 shareholders would send somebody.
15 When KBC became the full
16 shareholder of Antwerp Diamond Bank a
17 part of the mining company remained,
18 but they never had a representative.
19 Then it came practically to the same --
20 we would have a Credit Committee in our
21 bank without KBC people, and then for
22 certain amounts we would send the file
23 to KBC -- for certain amounts we had a
24 level of authority inside the bank and
25 above that the authority was at KBC
61: 1 Bank.
2 So that means that above a
3 certain amount, I don't recall exactly,
4 but it's in the level of \$20 million,
5 the Executive Committee would only be
6 able to give an advice, not a decision.
7 The file would go to KBC Bank and they
8 would take a decision.
9 Q. Does that mean that a credit
10 line above that limit had to be
11 approved by KBC?
12 A. Yes.

Pg: 63 Ln: 3 - Pg: 64 Ln: 7

Annotation:

63: 3 Q. Do you know whether it was
4 possible to even hold a meeting of the
5 Board or Executive Committee without
6 representatives of KBC in attendance,
7 whether it was possible to have a
8 quorum?
9 A. No. It was impossible.
10 Q. Sorry?
11 A. That was impossible.
12 Q. That was impossible?
13 A. KBC was the main shareholder.
14 Q. Are you familiar with the IKB

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Pg: 63 Ln: 3 - Pg: 64 Ln: 7 continued...

Annotation:

63:15 counterparty delegations of KBC?
16 A. Yes. That is what I explained to
17 you just five minutes ago. There were
18 levels of facilities at Antwerp Diamond
19 Bank could decide and levels that ADB
20 could only advise and KBC would decide.
21 Q. And that --
22 A. And that's -- that's the policy
23 of KBC Bank for all the share -- all
24 the companies of the group of KBC.
25 Q. And that policy is set forth in
64: 1 the IKB counterparty delegations, is
2 that your testimony?
3 A. Yes.
4 Q. And was the Lazare credit
5 facility subject to the counterparty
6 delegations of KBC?
7 A. Yes.

Pg: 64 Ln: 8 - Pg: 65 Ln: 7

Annotation:

64: 8 Q. Let's talk about the credit
9 facility that Lazare had with ADB. Do
10 you recall when that credit facility
11 was first issued to Lazare?
12 A. That must have been in '99 or
13 2000.
14 Q. Whose idea was it, if you know,
15 for Lazare to open a credit facility
16 with ADB?
17 A. Either mine or Moryto's.
18 Q. Do you recall proposing to Bill
19 Moryto that Lazare set up a credit
20 facility with ADB?
21 A. It may be. I don't know if the
22 idea came from me or from the client
23 because clients were interested to have
24 credit facilities and we had already a
25 relation through Lazare Kaplan Belgium
65: 1 in Head Office, so we knew each other.
2 So -- and that was the way for New York
3 to grow with existing clients and
4 referral of existing clients.
5 So we met and I tried to
6 convince the client or the client tried
7 to convince me but it came to the same.

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Pg: 68 Ln: 7 - Pg: 70 Ln: 19

Annotation:

68: 7 Q. Do you know whether Lazare took
8 any steps in, in and after December,
9 2000 to open a bank account at the New
10 York branch of KBC?
11 A. Yes.
12 Q. What steps did Lazare take to
13 open a bank account at KBC New York?
14 A. Well, we asked Lazare to -- if
15 he was interested and when the client
16 was interested we brought the whole set
17 of documents together with the people
18 of KBC, we introduced the people of KBC
19 to Lazare and we had the clients sign
20 the opening of the account and all the
21 relating documents. I don't know about
22 which documents but it's typical for
23 every bank, you know, the constitution
24 and act and all that type of stuff to
25 get an account.
69: 1 Q. And would you turn to Exhibit 1
2 in the binder in front of you and tell
3 me whether you can identify the
4 documents that comprise Exhibit 1?
5 (Plaintiff's Exhibit 1, was
6 received and marked on this date for
7 identification.)
8 A. What was your question about
9 this?
10 Q. Do you recognize these
11 documents? Can you identify them?
12 A. I know this is -- specifically
13 this document I don't remember if I saw
14 it at that time, but I know that this
15 is -- this is the typical KBC account
16 opening documents.
17 Q. And is the account number on the
18 first page, in the upper right-hand
19 corner, the account number assigned by
20 KBC to Lazar's bank account at KBC New
21 York?
22 A. I assume, but -- yeah. It's
23 mentioned like that, but I don't know
24 the number by heart, to be honest.
25 Q. Did anyone at ADB help KBC
70: 1 assemble these documents and obtain
2 signed originals from Lazare?
3 A. Yes.
4 Q. Who did so?
5 A. Probably Peter Driesen.
6 Q. Did you ask him to do so?

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Pg: 68 Ln: 7 - Pg: 70 Ln: 19 continued...

Annotation:

70: 7 A. I don't know if I asked him but
8 I probably had organized it that he
9 would do it at a certain time, yes.
10 Q. And turning to the third page,
11 marked with the number 410 in the lower
12 right-hand corner, you see the
13 reference in line 6 to "Publicly held
14 company American Stock Exchange?"
15 A. Yes.
16 Q. Was Lazare the first New
17 York-based public company that ADB had
18 a banking relationship with through its
19 New York office?

Pg: 71 Ln: 6 - Pg: 73 Ln: 20

Annotation:

71: 6 Q. And flipping forward four pages
7 to page 414, you see Mr. Driesen's
8 stamp and a signature beneath it?
9 A. Yes.
10 Q. And the handwritten note "Copies
11 of originals", did Mr. Driesen provide
12 copies of Mr. Moryto's passport to KBC?
13 A. I can only see what I read here,
14 so...
15 Q. And turning to the page marked
16 419, four pages from the end, do you
17 see the document entitled "Request for
18 taxpayer identification number"?
19 A. Yes.
20 Q. And the date alongside the
21 signature, "December 20, 2000"?
22 A. Yes.
23 Q. Was Lazare in the process of
24 providing bank documents to KBC in
25 December of 2000 in connection with the
72: 1 opening of a bank account at the New
2 York branch of KBC?
3 A. I don't remember.
4 Q. Does this document indicate to
5 you that Lazare was in the process of
6 assembling and providing documents to
7 KBC?
8 A. Yes.
9 Q. And turning to the very last
10 page of the exhibit entitled
11 "Telecommunications instructions", does
12 ADB use a similar form when it opens
13 bank accounts for customers?

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Pg: 71 Ln: 6 - Pg: 73 Ln: 20 continued...

Annotation:

72:14 A. That I don't remember. Now, this
15 is the document -- I remember this one
16 but I don't remember if we used one,
17 something like this.
18 Q. And do you know whether ADB ever
19 asked Lazare to sign a similar
20 document?
21 A. No. I don't remember. I don't
22 even know if we are obliged to do so in
23 Belgium.
24 Q. Do you know what kind of bank
25 account these documents contemplate?
73: 1 A. Well, this is just a current
2 account at KBC Bank New York, which was
3 set up as a zero balance account.
4 Q. As a --
5 A. -- zero bank balance.
6 Q. Is there anything in this
7 documents that alludes to a zero
8 balance account?
9 A. No. It's mentioned in the
10 Service Letter Agreement and the
11 additional explanation about it.
12 Q. So these documents set up an
13 ordinary bank account?
14 A. Yes. For the customer it's an
15 ordinary, a normal bank account.
16 Q. And would you turn to Exhibit 2,
17 next tab.
18 (Plaintiff's Exhibit 2, was
19 received and marked on this date for
20 identification.)

Pg: 74 Ln: 11 - 23

Annotation:

74:11 Q. And the stated reason for the
12 visit described in this document dated
13 January 23, 2001 is the opening of a
14 new account?
15 A. I suppose so.
16 Q. An account at KBC New York?
17 A. Yes.
18 Q. Were you present at the meeting?
19 A. No.
20 Q. Why not?
21 A. Maybe I was in Belgium. I was
22 only one week a month in New York,
23 so...

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Pg: 75 Ln: 15 - Pg: 79 Ln: 3

Annotation:

75:15 Q. Do you know whether the subject
16 of a zero balance account was discussed
17 with Lazare at this meeting?
18 A. We explained the whole setup to
19 all our clients because it was
20 important that they knew how it worked
21 because it looks a bit complicated, the
22 first time you explain it to a client
23 and then the clients get used to it,
24 that they operate the KBC account in
25 order to operate the Antwerp Diamond
76: 1 Bank account, to be able to use the
2 credit facility.
3 Q. Is there anything in this
4 document that talks about a zero
5 balance account?
6 A. No. No.
7 Q. Would you turn to the Exhibit 3,
8 tab 3.
9 (Plaintiff's Exhibit 3, was
10 received and marked on this date for
11 identification.)
12 Q. Have you ever seen this document
13 before?
14 A. No.
15 Q. Well, does this document suggest
16 to you that Lazare and KBC were
17 negotiating the terms of the KBC New
18 York banking conditions in March of
19 2001?
20 A. It would be, if this refers to
21 an article of the KBC conditions. I
22 don't know.
23 Q. And turning to the next exhibit,
24 tab 4.
25 (Plaintiff's Exhibit 4, was
77: 1 received and marked on this date for
2 identification.)
3 MS. GREDD: I do have a tab 4
4 but not everyone has a tab 4.
5 MR. SULLIVAN: You don't have a
6 tab 4?
7 Q. Can you identify this document?
8 A. No.
9 Q. Were you aware on or about March
10 29, 2001 that KBC had forwarded amended
11 original account agreements to Lazare
12 for signature?
13 A. No.
14 Q. To your knowledge, was Lazare in

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Issue Filter: Depo Designation

Pg: 75 Ln: 15 - Pg: 79 Ln: 3 continued...

Annotation:

77:15 the process of opening a bank account
16 at KBC New York at this period of time?
17 A. Yes. Yes.
18 Q. And flipping to the next
19 exhibit, number 5.
20 (Plaintiff's Exhibit 5, was
21 received and marked on this date for
22 identification.)
23 Q. Do you recognize this document?
24 A. I saw this document now
25 recently, in my preparation, but of
78: 1 course, I didn't remember that I've
2 seen that in 2001. Also, I was never
3 involved in this type of paperwork, to
4 be honest.
5 First of all, this was between
6 KBC and the client. Peter Driesen or
7 another colleague would intervene. When
8 I would come to New York I would not
9 involve myself in these type of
10 documents.
11 Q. But does this document indicate
12 to you that KBC New York was in the
13 process of assembling the information
14 needed to open a bank account for
15 Lazare at KBC New York?
16 A. Yes.
17 Q. And Ms. Maeckelbergh was asking
18 for ADB's help in assembling that
19 information?
20 A. Yes.
21 Q. And do you know whether Mr.
22 Driesen responded to the memo?
23 A. Yes.
24 Q. And did he assist
25 Ms. Maeckelbergh in assembling the
79: 1 documents needed to open Lazar's bank
2 account at KBC New York?
3 A. Yes.

Pg: 85 Ln: 10 - 16

Annotation:

85:10 Q. Would you turn to the next tab,
11 8, marked as Plaintiff's Exhibit 8?
12 (Plaintiff's Exhibit 8, was
13 received and marked on this date for
14 identification.)
15 Q. Can you identify this document?
16 A. No.

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Pg: 85 Ln: 24 - Pg: 86 Ln: 11

Annotation:

85:24 Q. Do you see at the top of the
25 page below the date November 13, 2001
86: 1 the words "Kindly note that ICM has
2 made a new account operational."
3 Do you understand this document
4 to refer to the account of Lazare
5 Kaplan, Lazare at the New York branch
6 of KBC?
7 A. Yes.
8 Q. And you see the reference that
9 reads "The company has a credit
10 facility with ADB?"
11 A. Yes.

Pg: 86 Ln: 21 - Pg: 87 Ln: 11

Annotation:

86:21 Q. And the next sentence "Payments
22 to accounts at ADB are done by book
23 transfers to ADB's account number
24 11743901."
25 Whose payments do you understand
87: 1 this sentence to be referring to? Which
2 payments?
3 A. That, I don't know, but -- I
4 don't know to which account that
5 refers. It may be the pooling account,
6 but I don't know.
7 Q. You think the account number
8 11743901 may be, but you're not sure
9 the pooling account of ADB at the New
10 York branch of KBC?
11 A. Yes.

Pg: 88 Ln: 13 - Pg: 89 Ln: 22

Annotation:

88:13 (Plaintiff's Exhibit 9, was
14 received and marked on this date for
15 identification.)
16 Q. Can you identify this document?
17 A. I don't remember the document
18 but I see what it means, yes.
19 Q. Do you see the first sentence
20 that reads "We are pleased to inform
21 you that we have received the
22 authorization from Antwerp Diamond Bank
23 to make the following account
24 operational."
25 Who at ADB provided that

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Pg: 88 Ln: 13 - Pg: 89 Ln: 22 continued...

Annotation:

89: 1 authorization?
2 A. Credit Department.
3 Q. Who in the Credit Department?
4 A. I don't know. Depending on who
5 was in charge at that time.
6 Q. And the account that's referred
7 to is Lazar's account at the New York
8 branch of KBC?
9 A. Yes.
10 Q. Was ADB notified in advance by
11 KBC that the Lazare bank account had
12 been opened at the New York branch of
13 KBC?
14 A. Yes.
15 Q. Did ADB approve the terms of the
16 account before it was opened?
17 A. From which accounted? From
18 the --
19 Q. From the KBC account?
20 A. ADB did not have to approve.
21 It's a KBC account. It's KBC Bank who
22 was in charge.

Pg: 90 Ln: 7 - Pg: 91 Ln: 9

Annotation:

90: 7 Q. There are written terms and
8 conditions for the Lazare bank account
9 at KBC New York, correct?
10 A. Yes.
11 Q. And you've described earlier a
12 procedure by which activity in the bank
13 account, the Lazare bank account at KBC
14 New York, was transferred to ADB's
15 pooling account at the New York branch
16 of KBC. Correct?
17 A. Yes.
18 Q. I'm asking you whether any of
19 the written documents between KBC Bank
20 and Lazare expressly or indirectly
21 permit KBC to transfer the activity in
22 the Lazare bank account to the ADB
23 pooling account? Do the documents
24 allow that?
25 A. I don't remember and I don't
91: 1 know if it's needed also legally.
2 Q. Do you know whether there is an
3 agreement between KBC and ADB that
4 permits KBC to do so?
5 A. Yes. The Service Letter

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Pg: 90 Ln: 7 - Pg: 91 Ln: 9 continued...

Annotation:

91: 6 Agreement.
7 Q. That is the Services Agreement
8 you've described earlier?
9 A. Yes.

Pg: 91 Ln: 18 - Pg: 92 Ln: 24

Annotation:

91:18 Q. Did KBC and ADB ever agree
19 between themselves that Lazar's bank
20 account at KBC New York would be used
21 to make payments or disbursements under
22 the Lazare credit facility?
23 A. The whole setup, I was part of
24 the Service Letter Agreement. So the
25 fact that KBC would open an account for
92: 1 the client was with the purpose to use
2 this account to -- to draw on the
3 credit facility of Antwerp Diamond Bank
4 through operating the account. That was
5 the whole purpose of the setup. KBC
6 would never open an account for a
7 diamond company that was not working
8 with Antwerp Diamond Bank and even that
9 would not have a credit facility. They
10 didn't want -- they didn't want -- we
11 did it only once or twice in France and
12 in fact, it was -- we didn't need to do
13 it.
14 Q. Is there an agreement, other
15 than the Services Agreement, that
16 permits the activity in the New York
17 account of KBC -- sorry -- the KBC New
18 York Lazare account to be transferred
19 to the ADB pooling account?
20 A. I think there was only one
21 Service Letter Agreement about these
22 type of transactions, which we amended
23 maybe once, which we -- but there is
24 only one agreement, I think.

Pg: 98 Ln: 5 - Pg: 101 Ln: 3

Annotation:

98: 5 Q. Would you turn to the next tab
6 in your binder, which we're going to
7 mark as Plaintiff's Exhibit 11.
8 (Plaintiff's Exhibit 11, was
9 received and marked on this date for
10 identification.)

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Pg: 98 Ln: 5 - Pg: 101 Ln: 3 continued...

Annotation:

98:11 Q. Can you tell me whether you are
12 the author of this e-mail?
13 A. Yes. That's right.
14 Q. Did you also prepare the
15 enclosed Call Report that follows the
16 e-mail in your binder?
17 A. Yes.
18 Q. To your knowledge, did Lazare
19 make active use of its bank accounts at
20 the New York branch of KBC?
21 A. Again, please?
22 Q. Did Lazare make active use of
23 its bank account at the New York branch
24 of KBC?
25 A. In that period of time?
99: 1 Q. At the relevant period of time.
2 MS. GREDD: At any point during
3 the relevant period of time?
4 MR. SULLIVAN: Yes.
5 A. Yes. More and more. In the
6 beginning they were not using so much.
7 At the end KBC's account was operated a
8 lot.
9 Q. And did Lazare use its KBC bank
10 account as its main banking relation in
11 the United States?
12 A. That I don't remember, but it
13 was an important account, I think.
14 Q. Well, would you look at the
15 second paragraph of your e-mail, and in
16 particular, the words at the end of the
17 first sentence "Client uses KBC NY as
18 main banking relation in the U.S."?
19 A. Okay. Then that's right. Yes.
20 Q. If you said it, it's correct?
21 A. Yes -- no. I don't remember now
22 but at that time.
23 Q. So was KBC New York Lazare's
24 primary bank, banker in the United
25 States?
100: 1 A. It was an operating account. The
2 bank -- depends how you see the primary
3 account. I think for a client a credit
4 line is very important.
5 So in that way, maybe other
6 banks were more important than KBC. But
7 the added value of KBC was that KBC
8 Bank is a clearing bank. ABN AMRO was
9 not, for instance. So ABM AMRO had to
10 clear checks for Lazare bank through

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Pg: 98 Ln: 5 - Pg: 101 Ln: 3 continued...

Annotation:

100:11 Chicago using a value date. And KBC
12 could give value same day without
13 losing anything that. So that was a
14 very strong argument towards the
15 clients.
16 Q. Well, do you have any idea of
17 the total amount of payments and
18 repayments that pass through Lazare's
19 bank account at KBC New York?
20 A. No. No. I don't remember.
21 Q. Was it in the millions, the tens
22 of millions, or the hundreds of
23 millions of dollars over the 10-year
24 period?
25 A. Over the 10-year period? Rather
101: 1 hundred.
2 Q. Hundreds of millions of dollars?
3 A. Yes.

Pg: 102 Ln: 14 - Pg: 103 Ln: 7

Annotation:

102:14 Q. Let's go back to the credit
15 facility for a moment. Were the terms
16 of the credit facility negotiated with
17 Lazare?
18 A. Yes.
19 Q. Who at ADB was involved in those
20 negotiations?
21 A. In negotiation, probably mainly
22 me, myself.
23 Q. And with whom did you negotiate
24 at Lazare?
25 A. Almost all the time with Bill
103: 1 Moryto.
2 Q. And where did those negotiations
3 take place?
4 A. Mostly New York, sometimes in
5 Antwerp, he came also to visit Antwerp,
6 so -- by phone, by phone also, we often
7 had phone conversations.

Pg: 103 Ln: 24 - Pg: 104 Ln: 9

Annotation:

103:24 Q. Was the Lazare credit facility
25 secured or unsecured?
104: 1 A. Unsecured.
2 Q. Was it recourse or non-recourse?
3 A. What do you mean by "recourse"?

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Pg: 103 Ln: 24 - Pg: 104 Ln: 9 continued...

Annotation:

104: 4 Q. Were there any personal
5 guarantees given in connection with the
6 credit facility?
7 A. No. I don't think so. I don't
8 know as a public company I don't think
9 they wanted to give that.

Pg: 105 Ln: 5 - 21

Annotation:

105: 5 Q. Is it the standard practice of
6 ADB to obtain personal guarantees in
7 connection with credit facilities that
8 it provides to customers?
9 A. Yes. Yes.
10 Q. And why is it that ADB did not
11 do so in this case?
12 A. In certain cases we couldn't
13 obtain, it's a matter of commercial
14 negotiation when the client is in a
15 strong position and we would like to do
16 business with him, and there were
17 strong arguments not to do so, like in
18 this case a public company. No, we
19 consider a public company having books
20 that are more reliable than the company
21 that is not public, so...

Pg: 108 Ln: 9 - 15

Annotation:

108: 9 Q. So you don't, yourself, use the
10 term working capital loan to
11 describe --
12 A. In Belgium that is not the word
13 we use. Maybe translated in Dutch it
14 means different, but it comes to the
15 same. It comes to the same.

Pg: 108 Ln: 20 - 25

Annotation:

108:20 Q. So would you look at tab 18 for
21 a moment and tell me whether you can
22 identify that document?
23 (Plaintiff's Exhibit 18, was
24 received and marked on this date for
25 identification.)

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Pg: 108 Ln: 20 - Pg: 110 Ln: 3

Annotation:

108:20 Q. So would you look at tab 18 for
21 a moment and tell me whether you can
22 identify that document?
23 (Plaintiff's Exhibit 18, was
24 received and marked on this date for
25 identification.)
109: 1 Q. Did you send this e-mail to
2 whomever you sent it to --
3 A. Yes.
4 Q. -- on or about December 17,
5 2008?
6 A. That's right. Yes.
7 Q. And directing your attention to
8 the second paragraph, second sentence,
9 that reads "As with the facilities that
10 LKI enjoys with ABN AMRO \$35 million
11 and Bank Leume \$10 million, the ADB NY
12 facility is unsecured and LKI uses its
13 facilities in New York for working
14 capital purposes throughout its global
15 consolidated operation."
16 Do you see the sentence I just
17 read to you?
18 A. Yes, but I don't see the
19 sentence. I was listening to you.
20 Where is it exactly? It's on the first
21 page?
22 Q. Yes. Underneath --
23 A. Okay. Yeah.
24 Q. Okay. And in this sentence you
25 are describing Lazare's use of its
110: 1 facilities in New York as for working
2 capital purposes?
3 A. Yes.

Pg: 111 Ln: 2 - Pg: 113 Ln: 12

Annotation:

111: 2 Q. Well, so let's walk through the
3 paragraph then. The very first sentence
4 "It is not clear what exactly we are
5 financing in New York and where the
6 collateral is."
7 A. Yes.
8 Q. What do you understand that
9 sentence to mean?
10 A. That's typical question from a
11 colleague in the Credit Department who
12 analyzes the file and compares the
13 files to files in Antwerp where we have

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Pg: 111 Ln: 2 - Pg: 113 Ln: 12 continued...

Annotation:

111:14 -- a bit on the side, in Antwerp we
 15 finance individual shipments. Antwerp
 16 Diamond Bank would have a shipment from
 17 a client, ADB would ship the goods
 18 physically because we had also a
 19 shipping department and we would have a
 20 pledge on that shipment. So that was
 21 fantastic, that was individualized. We
 22 did not have that in New York.

23 So in New York, the client would
 24 decide, I buy goods from the base, from
 25 the mining company, I use partly ABN,
 112: 1 partly ADB. So for this credit analyst
 2 it was not only, what happens with the
 3 monies that Antwerp Diamond Bank
 4 provide; did he buy these goods or that
 5 goods or did he finance sales? And that
 6 was not possible. It was part of the
 7 whole. We also didn't have a first lien
 8 on the assets, but all the banks also
 9 so it was considered all the assets are
 10 for all the banks in case something
 11 happens.

12 Q. Do I understand correctly that
 13 ADB's lending in Belgium was
 14 activity-based in nature?

15 A. Yes.

16 Q. And --

17 A. And basically, in New York was
 18 more borrowing-based. And later on,
 19 Lazare, I don't know from which diamond
 20 but also Lazare would fill in a
 21 borrowing base later on, but at this
 22 time I don't know if it was already in
 23 2008 but indeed the analyst, right,
 24 it's no so easy for the analyst to see
 25 what happened exactly with the millions
 113: 1 of dollars that ADB provided.

2 Q. And was the credit facility to
 3 Lazare typical of the lending provided
 4 by ADB New York to customers?

5 A. It was a little exceptional
 6 because there were no personal
 7 guarantees. It was a public company.
 8 So that was another approach. And the
 9 fact, when you work with multi-bank
 10 relations it is less clear what you
 11 finance, and there were other clients
 12 with multi-bank arrangements.

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Pg: 123 Ln: 19 - 25

Annotation:

123:19 Q. Well, let's look at the line
20 letter, which is tab 41 in your binder.
21 (Plaintiff's Exhibit 41, was
22 received and marked on this date for
23 identification.)
24 Q. Do you recognize this document?
25 A. Yes.

Pg: 128 Ln: 2 - Pg: 130 Ln: 1

Annotation:

128: 2 Q. And the words that begin "In
3 principle the aforesaid credit is only
4 to be utilized for overdrafts in
5 current accounts", and then it
6 continues, "utilization other than
7 overdrafts in current accounts" and
8 goes on from there.
9 Do you understand the different
10 types of borrowings described here;
11 straight lines, discount bank
12 guarantees issued by us, forward
13 contracts, etcetera, to be examples of
14 utilizations other than as overdrafts
15 and current accounts?
16 A. Yes.
17 Q. And is it your testimony that
18 these different utilizations require
19 the customer to have a bank account at
20 ADB?
21 A. Yes.
22 Q. And what do you understand the
23 words "in principle" to mean at the
24 beginning of that sentence?
25 A. I'm trying to find a synonym. It
129: 1 refers to the rest of the sentence.
2 It's basically or in principle as a
3 matter of fact, it's only to be
4 utilized as overdraft but in agreement
5 with the bank also we could agree that
6 straight loans were used or that on
7 application of the facility the bank
8 guarantee would be given, etcetera,
9 etcetera.
10 Q. So is it the case -- is it
11 correct that the bank is not required
12 to use overdrafts in current accounts
13 for its borrowing -- its lending,
14 rather?
15 A. Sorry.

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Pg: 128 Ln: 2 - Pg: 130 Ln: 1 continued...

Annotation:

129:16 MR. MARTIN: Objection to the
17 form of the question.
18 Q. I'll rephrase it.
19 Does -- do these words require
20 credits to be utilized for overdrafts
21 in current accounts?
22 A. Does this what?
23 Q. Does this language in paragraph
24 2 require that credits be utilized for
25 overdrafts in current accounts?
130: 1 A. Theoretically you could say no.

Pg: 139 Ln: 22 - Pg: 142 Ln: 9

Annotation:

139:22 Q. Would you turn to the next tab
23 which is 16?
24 (Plaintiff's Exhibit 16, was
25 received and marked on this date for
140: 1 identification.)
2 Q. Can you identify this document?
3 A. I don't remember it, but if I
4 read maybe...
5 (Whereupon, the Deponent reviews
6 the document.)
7 A. Apparently this is -- I'm sure
8 this is a question from the credit
9 analyst in Belgium to Oakley Champine,
10 who at that time had probably made the
11 credit revision of the file to add
12 additional information.
13 Again, you see "What exactly are
14 we financing in New York?" That was --
15 in Antwerp it was always the same
16 question and so Oakley was proposing to
17 his boss Marc Weiss what and if I reply
18 like this do you agree? Because Marc
19 was his boss and then he would put that
20 in his reply to the Credit Department.
21 Q. And you were copied on this
22 e-mail by Mr. Champine?
23 A. Yes.
24 Q. And directing your attention to
25 the -- Mr. Champine's statement,
141: 1 "Lazare Kaplan International Inc. is
2 unique in the ADB portfolio." What do
3 you understand that to mean?
4 A. First of all, unsecured, it was
5 quite unique. Secondly, LKI, like we
6 discussed, uses the facilities to help

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Pg: 139 Ln: 22 - Pg: 142 Ln: 9 continued...

Annotation:

141: 7 funding its worldwide business, also
8 through other companies of the group.
9 Yeah. Exactly. That's the whole
10 paragraph, in fact.
11 So part of the facilities used
12 directly by Lazare, but part of the
13 amounts are transferred by Lazare to
14 affiliates because they have the
15 license or whatever and they have
16 reason to use, so...
17 Q. Was the Lazare credit facility
18 unique in any other respects?
19 A. I think at that time there was
20 not yet a borrowing base also. I don't
21 recall when the client started to give
22 a borrowing base. Other clients we're
23 working with a borrowing base. I also
24 do not remember exactly, did we audit
25 -- some clients were audited every
142: 1 year, some, for some reasons, the fact
2 that it was a public company, the
3 balance sheet was probably already
4 audited 20 times so why audit it
5 another time? I don't think this
6 client was audited by our external
7 auditors of our bank. We worked with
8 external companies that we're charging
9 the client.

Pg: 150 Ln: 15 - Pg: 152 Ln: 24

Annotation:

150:15 Q. So when you testified -- is it
16 important to your testimony, Mr. Loral,
17 that the financing took place in
18 Belgium, that the funds were in
19 Belgium?
20 A. The funding was in Belgium, yes.
21 Q. Is that important to your
22 conclusion?
23 A. It's important --
24 MS. GREDD: Objection to form.
25 Q. And if the funding took place in
151: 1 New York, would you still be of the
2 view that the financing took place in
3 Belgium?
4 MS. GREDD: Objection to form.
5 Q. You can answer.
6 A. No. Because the funding would
7 only be a tool to finally use the

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Pg: 150 Ln: 15 - Pg: 152 Ln: 24 continued...

Annotation:

151: 8 credit facility of Antwerp Diamond
 9 Bank. Again, the whole KBC setup is
 10 just a tool. The activity between the
 11 client and the bank was Lazare and
 12 Antwerp Diamond Bank, credit facility
 13 and account. And KBC was just used to
 14 make the transfer instead of avoiding
 15 to make faxes and losing one value
 16 date, etcetera, etcetera.
 17 Q. And what is it that KBC was
 18 transferring, the funds, correct?
 19 A. Yes.
 20 Q. And that transfer took place in
 21 New York, correct?
 22 A. Yes. But it was immediately
 23 funded by funds of Antwerp Diamond
 24 Bank. That's why we had a pooling
 25 account to be able to do it
 152: 1 immediately.
 2 Q. And those funds in the pooling
 3 account were located in New York,
 4 correct?
 5 A. Dollars are always in the U.S.
 6 Q. Yes. So all of the money that
 7 was used to fund the loans to Lazare
 8 were situated in New York, correct?
 9 A. They belong do Antwerp Diamond
 10 Bank.
 11 Q. My answer is -- my question,
 12 rather, is all of the monies that were
 13 used to fund the loans to Lazare under
 14 the credit facility were situated in
 15 New York, correct?
 16 A. No. I don't agree with that
 17 because then you could say that
 18 everything that happens in dollar is in
 19 U.S. because it's a U.S. currency.
 20 Finally every U.S. currency is cleared
 21 through the United States but still,
 22 the bank is the Belgian bank in Belgium
 23 providing the funds and responsible for
 24 the funds.

Pg: 157 Ln: 8 - Pg: 159 Ln: 15

Annotation:

157: 8 Q. Would you turn to tab 19, which
 9 we'll mark as Plaintiff's 19?
 10 (Plaintiff's Exhibit 19, was
 11 received and marked on this date for

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Pg: 157 Ln: 8 - Pg: 159 Ln: 15 continued...

Annotation:

157:12 identification.)
13 Q. Can you identify this document
14 or documents because it includes a
15 number of e-mails?
16 A. I don't remember but if I read
17 --
18 Q. Well, let's start with the very
19 last page, 2336 in number. Do you see
20 the subject line "working capital LKI
21 April '09"?
22 A. Yes.
23 Q. Did ADB refer in its internal
24 correspondence and memos to the credit
25 facility to Lazare as a working capital
158: 1 loan or facility?
2 A. That I don't know.
3 Q. And if they had done so, would
4 your testimony remain the same, that
5 working capital for these purposes is
6 the same as an overdraft facility loan?
7 A. I don't know what to tell you
8 about this. This is an internal
9 document. So I don't know from who to
10 who. I don't know why they use this
11 name. You see, the American employees
12 were more familiar with this vocabulary
13 than the Belgian employees. For me
14 working capital I know plus/minus what
15 it means but that is not a word that we
16 used in Belgium. We used "overdraft
17 facility". An American employee would
18 probably use this word for the
19 communication, we would understand what
20 he means, but externally to the clients
21 we used our Belgian vocabulary. So I
22 don't want to play on words here
23 because it's too delicate.
24 For me "working capital" is not
25 a word that I use normally in my
159: 1 language to clients because that is an
2 American word.
3 Q. But as the term working capital
4 is used in America, it's not the same
5 thing as an overdraft loan. Is that
6 correct?
7 A. I don't know. That's why I put
8 this point on the table. That's
9 important. I don't want to -- to go
10 into that because I don't control too
11 much that vocabulary. For me the

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Transcript: [9/28/2015] Loral, Philippe

Issue Filter: Depo Designation

Pg: 157 Ln: 8 - Pg: 159 Ln: 15 continued...

Annotation:

159:12 facility from Antwerp Diamond Bank were
13 overdraft facilities with possibility
14 to have loans on certain terms. That is
15 what we did.

Pg: 164 Ln: 13 - Pg: 165 Ln: 6

Annotation:

164:13 Q. Turn to the next page, which is
14 marked as Plaintiff's Exhibit 20.
15 (Plaintiff's Exhibit 20, was
16 received and marked on this date for
17 identification.)
18 Q. Here is a chance for you to show
19 off your language skills, Mr. Loral.
20 Do you see the paragraph that
21 begins LKI is "een kredietnemer"?
22 A. Yes.
23 Q. Could you translate that
24 sentence?
25 A. LKI -- is enjoying a credit
165: 1 facility from Antwerp Diamond Bank New
2 York.
3 Q. Is that another way of saying
4 that LKI is a borrower of Antwerp
5 Diamond Bank New York?
6 A. Yes.

Pg: 169 Ln: 19 - Pg: 170 Ln: 2

Annotation:

169:19 Q. And would you turn to tab 23,
20 please? Can you identify this document?
21 (Plaintiff's Exhibit 23, was
22 received and marked on this date for
23 identification.)
24 A. That's a credit application in
25 the file Lazare.
170: 1 Q. Dated August 14, 2001?
2 A. Yes.

Pg: 171 Ln: 14 - Pg: 175 Ln: 4

Annotation:

171:14 Q. And directing your attention to
15 two pages from the end, the page number
16 30952, do you see the paragraph in the
17 middle that reads "The fact that the
18 proposed credits imply a higher credit
19 risk as the credit facility in Antwerp

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Pg: 171 Ln: 14 - Pg: 175 Ln: 4 continued...

Annotation:

171:20 is activity linked, while the credit
21 line in New York is a working capital
22 loan blank." Do you see that
23 statement?
24 A. Yes.
25 Q. Did you prepare this document?
172: 1 A. This document was prepared by
2 Peter Driesen. You can see that on top
3 left, PD, probably co-signed by me
4 because nothing would leave, but this
5 page that you refer to, the 52, that's
6 prepared by Credit Department. So
7 that's Head Office.
8 Q. So someone in Antwerp Belgium?
9 A. That's a credit analyst, yes.
10 That was the discussion that we had,
11 LKB, like I explained to you had a very
12 defined credit facility with modalities
13 to finance sales, shipments that were
14 identified and so on.
15 LKI was all flexible. It was
16 one facility that could be drawn
17 whenever the client wanted, as long as
18 it was diamond business, and mixed up
19 with other banks, but our argument --
20 or commercial, but yes, it's a
21 commercial company, look at the balance
22 sheet and yeah.
23 Q. Do you see the reference to
24 "working capital loan"?
25 A. Yes.
173: 1 Q. So this is, if I understand your
2 testimony correctly, someone in the
3 Antwerp Head Office of ADB describing
4 the Lazare credit facility in New York
5 as a working capital loan?
6 A. Yes.
7 Q. So does that suggest to you that
8 the words "working capital loan" were,
9 in fact, used by ADB to describe the
10 credit facility?
11 A. Some people would use that to
12 show a difference between the facility
13 of LKB and LKI but we didn't really use
14 that word often. This is in this case
15 to show -- look at the difference, we
16 are not well collateralized, it's not
17 well-defined and it's --
18 Q. Well, when you first met with or
19 spoke with Bill Moryto about the

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Pg: 171 Ln: 14 - Pg: 175 Ln: 4 continued...

Annotation:

173:20 possibility that Lazare Kaplan would
21 set up a credit facility with ADB did
22 he tell you that Lazare was looking for
23 a working capital line of credit?
24 A. I suppose that word is part of
25 the vocabulary, yes, Americans use it.
174: 1 Q. And if you move toward the front
2 of this e-mail three pages, to the page
3 numbered 30949, do you see at the top
4 paragraph toward the end the sentence
5 that reads "LKI is requesting a working
6 capital loan partly to finance the New
7 York operations but also to finance the
8 other affiliates of the LKI group."
9 A. Yeah.
10 Q. Now, and did Mr. Moryto explain
11 to you what he meant by a working
12 capital loan when he told you that
13 Lazare Kaplan was looking to set up a
14 working capital line of credit?
15 A. I don't remember.
16 Q. But you do recall that he told
17 you that he was looking for working a
18 capital -- you have to let me finish,
19 sir.
20 A. Sorry.
21 Q. He told you that he was looking
22 to set up a working capital line of
23 credit for Lazare Kaplan?
24 MS. GREDD: Objection to form.
25 You can answer.
175: 1 A. I don't recall exactly when or
2 what but it's -- I would not deny that
3 he was using that terminology. I would
4 not deny that.

Pg: 179 Ln: 18 - Pg: 182 Ln: 4

Annotation:

179:18 Q. How did Lazare make the
19 payments? You just testified that the
20 payments were made bay Lazare.
21 A. Yes.
22 Q. How did they go about making the
23 payments?
24 A. Well, Lazare had the credit
25 facility in Antwerp from ADB, but have
180: 1 the possibility to use a KBC account to
2 operate this. So that we discussed
3 already, KBC would be asked to transfer

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Pg: 179 Ln: 18 - Pg: 182 Ln: 4 continued...

Annotation:

180: 4 the money --
 5 Q. And --
 6 A. -- and be funded by ADB.
 7 Q. So who asked -- who would ask,
 8 under this procedure that you're
 9 describing, who is it that would ask
 10 KBC?
 11 A. Bill Moryto.
 12 Q. And he would submit a form to
 13 KBC?
 14 A. Yes.
 15 Q. Okay.
 16 A. Transfer.
 17 Q. And what did KBC do in response
 18 to such a form, upon receiving that
 19 form? What was the next step?
 20 A. The next step was to see if
 21 there was availability if the credit
 22 line was not drawn too much, compliance
 23 would probably have a look if it was an
 24 acceptable transaction, etcetera, they
 25 would do the normal, then the transfer
 181: 1 would be done.
 2 Q. And how was the transfer -- who
 3 made the transfer? Who sent the money?
 4 A. KBC.
 5 Q. And then KBC then reconciled
 6 that payment with ADB?
 7 A. Yes.
 8 Q. Through the ADB pooling account
 9 in New York?
 10 A. Yeah. Yes.
 11 Q. And when payments came in did
 12 the same procedure apply?
 13 A. Yes.
 14 MS. GREDD: You have to wait
 15 until he finishes the question --
 16 THE WITNESS: Sorry.
 17 MS. GREDD: -- and then answer.
 18 Q. And the payment would be
 19 deposited into KBC's bank account in
 20 New York, right?
 21 A. Yes.
 22 Q. And KBC would reconcile the
 23 activity in the Lazare account with the
 24 ADB pooling account?
 25 A. Yes.
 182: 1 Q. So the money never left New
 2 York?
 3 A. Again, there are dollars --

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Pg: 179 Ln: 18 - Pg: 182 Ln: 4 continued...

Annotation:

182: 4 dollars never leave New York.

Pg: 194 Ln: 8 - 23

Annotation:

194: 8 Q. When Lazare -- sorry. When
9 Lazare submitted a payment request to
10 KBC Bank, "Please disburse the
11 following monies to third party", how
12 did KBC go about determining whether
13 Lazare had sufficient credit to allow
14 KBC to fund that request?
15 MS. GREDD: Objection to form.
16 Q. You can answer.
17 A. KBC knew because they record all
18 what happens.
19 Q. They had a record?
20 A. They had a record and based on
21 the record they knew and when there was
22 a doubt they would contact us; can you
23 check to make sure?

Pg: 208 Ln: 3 - Pg: 211 Ln: 14

Annotation:

208: 3 Q. Would you turn to tab 55,
4 please?
5 (Pleading's Exhibit 55, was
6 received and marked on this date for
7 identification.)
8 Q. Do you recognize this document,
9 Mr. Loral?
10 A. Yes.
11 Q. What is this document?
12 A. It's an agreement between the
13 client and Antwerp Diamond Bank. At the
14 time that the client is getting an
15 account at KBC Bank this, in fact, is
16 important in the Service Letter
17 Agreements between the two banks in
18 order to operate the KBC account
19 connected to the ADB account.
20 In fact, it contains two parts;
21 the client agrees that all the
22 transactions will pass over the KBC
23 account; and the second part is that
24 the client agrees that there is -- that
25 ADB and KBC can look at each other's
209: 1 accounts. It's -- the second part is
2 important to be able to make sure and

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Pg: 208 Ln: 3 - Pg: 211 Ln: 14 continued...

Annotation:

209: 3 check that the balance are same to
 4 reconciliate.
 5 Q. Did you prepare this document?
 6 A. Yes.
 7 Q. Did you consult with anyone at
 8 ADB before preparing it?
 9 A. Yes.
 100: 10 Q. With whom did you consult?
 101: 11 A. I don't remember but probably
 102: 12 we're involved in those things, Frank
 103: 13 Howe on our side at KBC Greg Boston,
 104: 14 the operation of people in the banks.
 105: 15 Q. Did you consult with Mr. Boston
 106: 16 at KBC before you prepared this
 107: 17 document?
 108: 18 A. Yes. Yes.
 109: 19 Q. Did you consult with anyone else
 110: 20 at KBC before you prepared the
 111: 21 document?
 112: 22 A. On KBC side, normally Greg
 113: 23 Boston will consult further with legal
 114: 24 people, and on my side I would consult
 115: 25 with legal people, I assume that also
 210: 1 our legal people were looking at this
 2 but I don't remember now.
 3 Q. Did you prepare any drafts of
 4 this document?
 5 A. What do you mean?
 6 Q. Before the final version was
 7 signed.
 8 A. That I don't remember.
 9 Q. Where was the original of this
 210: 10 document kept at the bank?
 211: 11 A. I don't remember if it was in
 212: 12 Antwerp Diamond Bank in Belgium or in
 213: 13 KBC Bank, New York.
 214: 14 Q. Do you have a copy of this
 215: 15 document in your possession?
 216: 16 A. No.
 217: 17 Q. Did you provide the original or
 218: 18 a copy of the document to anyone at
 219: 19 KBC?
 220: 20 A. Probably, if one bank kept the
 221: 21 original the other bank would have a
 222: 22 copy, because it was -- this was a
 223: 23 procedure going together with opening
 224: 24 of the KBC account. This document was
 225: 25 part of the package.
 211: 1 Q. Would you have dealt with
 2 Mr. Boston at KBC or anyone else in

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Pg: 208 Ln: 3 - Pg: 211 Ln: 14 continued...

Annotation:

211: 3 that regard?
4 A. Greg Boston, Maaïke Maeckelbergh
5 was involved because she was involved
6 in opening the accounts on a daily
7 basis. So those were the ones.
8 Q. Who asked Lazare to sign this
9 document?
10 A. I don't know.
11 Q. Did you do so?
12 A. No. Personally, I didn't ask --
13 probably somebody from ADB
14 representative office.

Pg: 211 Ln: 23 - Pg: 213 Ln: 8

Annotation:

211:23 Q. Directing your attention to the
24 first sentence, did you mean to say
25 when you drafted this document that all
212: 1 of Lazare's transactions under its
2 credit facility must pass through its
3 KBC New York account?
4 A. Where do you see "must"?
5 Q. "Shall be effected", did you
6 mean by "shall be effected" "must"?
7 A. Yes.
8 Q. And did you, when you used the
9 word "all", mean that without
10 exception?
11 A. We would prefer "without
12 exception", unless there was a
13 motivated request of the client.
14 Technically, we could still work
15 with the Belgian account, but that
16 would again create a mismatch. So we
17 would prefer the client did not do it
18 but it would happen that for a
19 reasonable reason the client would ask
20 us and that we would allow it to do
21 directly a transaction with Antwerp on
22 the account of Antwerp, but then we had
23 to immediately tell KBC because there
24 was a mismatch between the two
25 accounts.
213: 1 Q. So was it your intention in
2 drafting this document that the -- that
3 Lazare's bank account at the New York
4 branch of KBC would be the exclusive
5 vehicle for payments and disbursements
6 under the credit facility?

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Pg: 211 Ln: 23 - Pg: 213 Ln: 8 continued...

Annotation:

213: 7 A. That was the purpose. That was
8 the purpose.

Pg: 213 Ln: 16 - Pg: 214 Ln: 2

Annotation:

213:16 Q. Did KBC consent to --
17 A. -- to these documents?
18 Q. -- to the arrangements described
19 in this document?
20 A. Yes.
21 Q. And how did they consent?
22 A. This document is part of the
23 Service Letter Agreement. First we
24 agreed between two banks how we would
25 operate and then there was that memo
214: 1 explaining the details, and this is
2 part of the whole setup.

Pg: 214 Ln: 14 - Pg: 220 Ln: 1

Annotation:

214:14 Q. Would you turn now to Exhibit 57
15 tab 57?
16 (Plaintiff's Exhibit 57, was
17 received and marked on this date for
18 identification.)
19 Q. Is this the Services Agreement
20 that you alluded to in your earlier
21 testimony today?
22 A. Yes.
23 Q. Is that your signature on the
24 second page?
25 A. Yes.
215: 1 Q. Along with Mr. DeBosscher's
2 signature and Mr. Boston's signature?
3 A. Yes.
4 Q. And this is an agreement between
5 the ADB and the New York branch of KBC.
6 Is that correct?
7 A. Yes.
8 Q. And the agreement is dated
9 October 15, 1999.
10 A. Yes.
11 Q. Do you know who wrote this
12 document?
13 A. I was involved in it but I don't
14 know who -- I think it was redacted by
15 Greg Boston and then we worked it out
16 in different stages. I mean, that took

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Pg: 214 Ln: 14 - Pg: 220 Ln: 1 continued...

Annotation:

215:17 some time. It had to be exactly right.
18 So several people were involved in it.
19 Q. And let's walk through the
20 document beginning with the "whereas"
21 clauses on the top of page 1.
22 Do you see the first "whereas"
23 clause that provides or reads, "ADB
24 wishes to expand its business to the
25 New York diamond market?"
216: 1 A. Yes.
2 Q. What type of business was ADB
3 looking to expand to the New York
4 diamond market?
5 A. Financing of the industry.
6 Q. Loans?
7 A. Yes.
8 Q. Loans? And was ADB already doing
9 business with the New York diamond
10 market as of the date of this
11 agreement?
12 A. Yes.
13 Q. Do you recall how many different
14 clients in the New York diamond market
15 ADB had as of the date of this
16 agreement?
17 A. I would say 10, 10 maybe. Around
18 that level.
19 Q. Okay. And moving down to the
20 second "whereas" clause, do you see the
21 language the sentence that begins, "KBC
22 agrees to provide certain operational
23 services to ADB and to ADB's clients"?
24 Do you see that?
25 A. Yes.
217: 1 Q. What were the operational
2 services that KBC was agreeing to
3 provide to ADB and to ADB's clients in
4 this document?
5 A. The one that are mentioned
6 below.
7 Q. In the text?
8 A. Yes.
9 Q. So that would include allowing
10 diamond clients to open current
11 accounts at the New York branch of KBC?
12 A. Yes.
13 Q. And effectuating local and
14 international payments on behalf of the
15 clients?
16 A. Yes.

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Pg: 214 Ln: 14 - Pg: 220 Ln: 1 continued...

Annotation:

217:17 Q. And providing other banking
18 services on behalf of the clients?
19 A. Yes.
20 Q. Okay. What does the reference to
21 "current accounts" mean?
22 A. Current accounts is -- is an
23 overdraft account facility -- operating
24 account. I mean, I don't know what else
25 I can say on --
218: 1 Q. An operating account?
2 A. Yes.
3 Q. An operating bank account?
4 A. Yes.
5 Q. In whose books are diamond
6 clients to open current accounts or
7 operating accounts?
8 A. In this agreement, the purpose
9 is that it's in the KBC New York books.
10 Q. KBC New York. Okay. And does
11 this paragraph contemplate that KBC
12 will effectuate local and international
13 payments on behalf of the diamond
14 clients?
15 A. Yes.
16 Q. What does "effectuate" mean, as
17 it's used in this document, Mr. Loral,
18 execute?
19 A. Yes. Yes. Yes.
20 Q. What are the other banking
21 services that is described in this
22 second "whereas" clause?
23 A. I don't recall. I don't recall.
24 But I mean, KBC is an independent bank.
25 They could provide other service that
219: 1 the client could use as a bank.
2 Q. So, for example -- withdrawn.
3 Did KBC provide other banking
4 services to Lazare in connection with
5 the Lazare bank account at KBC New
6 York? Was that a full service account?
7 A. Not full service, like payroll,
8 KBC didn't want to do. But there were
9 possibilities, if the client would like
10 to have hedging products, probably KBC
11 would have done it.
12 I don't know if we did anything
13 for Lazare, if KBC did anything for
14 Lazare but the facility was there,
15 nothing was excluded in that way.
16 Q. And moving to the next "whereas"

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Pg: 214 Ln: 14 - Pg: 220 Ln: 1 continued...

Annotation:

219:17 clause that begins "In agreement with
18 the diamond clients," do you see that?
19 A. Yes.
20 Q. What is the agreement with the
21 diamond clients that's referred to
22 here?
23 A. I should read again that one --
24 Q. Exhibit 55.
25 A. Yes. Yes. That must refer to
220: 1 these documents.

Pg: 220 Ln: 2 - Pg: 222 Ln: 10

Annotation:

220: 2 Q. Okay. I asked you earlier
3 whether Exhibit 55, which you described
4 as an agreement between ADB and Lazare,
5 was also an agreement between KBC and
6 Lazare, and you said no.
7 Now, having looked at the
8 language in the Services Agreement I
9 ask you again whether Exhibit 55 is an
10 agreement between KBC and Lazare, as
11 well as ADB and Lazare?
12 A. For me it's an agreement between
13 ADB and Lazare and we give the form to
14 KBC and for KBC this is approved that
15 the client agrees but the document is
16 addressed to ADB not to KBC, but it
17 mentions what we just discussed. So if
18 KBC got this document for KBC this
19 point was in order.
20 Q. So if I understand your
21 testimony correctly you're saying that
22 KBC considered Exhibit 55 to be an
23 agreement with Lazare, agreement
24 between itself and Lazare?
25 MS. GREDD: Objection.
221: 1 Q. But feel free to correct me if
2 I'm wrong.
3 A. No. KBC -- KBC wants to make --
4 checked or wanted to make sure that the
5 client agreed and the client had to
6 agree because it had sent the letter to
7 ADB, so...
8 Q. So is it your testimony that KBC
9 relied on this Plaintiff's Exhibit 55
10 as a written permission to take the
11 actions described in the service
12 agreement?

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Pg: 220 Ln: 2 - Pg: 222 Ln: 10 continued...

Annotation:

221:13 A. I think to say yes, unless I
14 forget anything, but I don't think
15 there were any other documents, but I'm
16 --
17 Q. Was Plaintiff's Exhibit 55 then
18 an agreement for the benefit of KBC as
19 well as ADB?
20 MR. MARTIN: Objection, form.
21 A. Those are legal words. I mean, I
22 can only repeat this document was
23 addressed to ADB and was used to work
24 with the Service Letter Agreement. And
25 legally, I'm not a lawyer, so I don't
222: 1 know.
2 Q. Okay. But this, the language in
3 the Services Agreement that reads, "In
4 agreement with the diamond clients",
5 that language refers to Exhibit 55,
6 does it not?
7 A. Yes. I think so. I don't
8 remember -- unless I forgot something,
9 I don't remember other documents in
10 that context.

Pg: 222 Ln: 11 - Pg: 224 Ln: 18

Annotation:

222:11 Q. Now, this -- this "whereas"
12 clause goes on to provide that, "KBC
13 agrees to communicate all payments
14 effectuated by the diamond clients to
15 ADB via SWIFT communications."
16 The -- would a payment by
17 Lazare to a third party in connection
18 with the purchase or financing of
19 diamonds be a payment effectuated by a
20 diamond client within the meaning of
21 this paragraph?
22 A. That's a long sentence. Could
23 you --
24 Q. I'll break it down for you.
25 Which party, which bank is
223: 1 effectuating the payments by the
2 diamond clients, looking at this
3 "whereas" clause?
4 A. I'm reading the clause again.
5 (Whereupon, the Deponent reviews
6 the document.)
7 A. So your question was if KBC is
8 effectuating a transaction, a payment

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Pg: 222 Ln: 11 - Pg: 224 Ln: 18 continued...

Annotation:

223: 9 from Lazare to a third party, if this
10 clause -- yes, indeed, yeah.
11 Q. So when the -- when the
12 "whereas" clause provides that KBC
13 agrees to communicate all payments
14 effectuated, it means in its reference
15 to payments effectuated, payments that
16 it effectuates for the diamond clients
17 of ADB?
18 A. Via the account of KBC.
19 Q. Yes. Okay. And the last sentence
20 of this "whereas" clause, "On the basis
21 of those messages ADB will make
22 internal entries to adjust the
23 customer's credit position."
24 Do the words "the customer's
25 credit position" mean to the balance of
224: 1 the outstanding loans under a credit
2 facility such as the one Lazare had?
3 A. Yes.
4 Q. And continuing down to the last
5 "whereas" clause that reads, "ADB
6 agrees to open a pooling account with
7 KBC to fund the payments effectuated by
8 KBC on behalf of the diamond clients,"
9 are we talking here about a pooling
10 account at the New York branch of KBC?
11 A. I think that account was
12 maintained in New York, yes.
13 Q. So the payments effectuated or
14 executed by KBC on behalf of the
15 diamond clients of ADB, were reconciled
16 with the pooling account set up by ADB,
17 pursuant to this agreement?
18 A. Yes.

Pg: 227 Ln: 8 - Pg: 228 Ln: 15

Annotation:

227: 8 Q. ADB clients that did not have an
9 account at KBC New York but rather at a
10 different bank, is it correct that
11 dollar denominated transactions of such
12 ADB clients were executed through the
13 ADB pooling account at KBC New York?
14 MS. GREDD: Objection to form.
15 A. No. I think we misunderstood
16 each other here. The clients that
17 Antwerp Diamond Bank had in New York,
18 those clients were in the business, in

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Pg: 227 Ln: 8 - Pg: 228 Ln: 15 continued...

Annotation:

227:19 the profit center New York and those
20 clients would all try to guide through
21 KBC's -- KBC account in the pooling
22 system because it was better for the
23 clients and we prefer that then the
24 system was working for everybody. In
25 the beginning some clients elected not
228: 1 to do it. Okay? After a certain time
2 most of the clients, and all the
3 clients, in fact, agreed to do it and
4 it worked.
5 So it was a matter of
6 construction in the system and putting
7 all the clients in the system. But we
8 had clients in Belgium or in Hong Kong,
9 all the transactions in U.S. dollar --
10 in diamond business are in U.S. dollar
11 they would not work with the pooling
12 clients. There was no need. The pooling
13 client was to fund the transactions
14 that KBC was doing on our behalf. All
15 the rest we were funding ourselves.

Pg: 232 Ln: 15 - 23

Annotation:

232:15 Q. So going back to the agreement
16 below the words "It is agreed as
17 follows" on the first page, number one,
18 do you see the sentence that begins
19 "KBC will accept all payment orders
20 from the diamond clients either locally
21 in New York or internationally," do you
22 see that sentence?
23 A. Yes.

Pg: 233 Ln: 5 - Pg: 242 Ln: 14

Annotation:

233: 5 Q. Would you look at Exhibit 61,
6 tab 61?
7 A. Would you mind, the last page?
8 Q. First page? That's it.
9 A. Yes.
10 Q. Is that a form of payment order
11 from a diamond client to KBC?
12 A. It looks like. I don't recall
13 this document, but when I read it, I
14 see.
15 Q. Okay. So going back to paragraph

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Pg: 233 Ln: 5 - Pg: 242 Ln: 14 continued...

Annotation:

233:16 1, the diamond client in this case
17 Lazare submits a payment order to KBC.
18 Can you walk us through the procedure
19 that's described in this Service
20 Agreement in regard to effectuating
21 that payment order?
22 A. KBC will receive this document.
23 Q. From a customer like Lazare
24 Kaplan?
25 A. They would verify the
234: 1 signatures, etcetera. Meanwhile, KBC
2 has to be informed about the level of
3 facility and indepthness of the clients
4 with Antwerp Diamond Bank so that we
5 know that they can do the transaction
6 because we know --
7 Q. So stop there for a quick.
8 You're going too quickly now.
9 Are you saying that when KBC
10 receives the payment order from a
11 customer like Lazare in the form that
12 you just identified, it verifies with
13 ADB that there is sufficient credit
14 under the line of credit, the credit
15 facility to support the payment that's
16 requested?
17 A. Yes. And they do it from time to
18 time because KBC keeps records of all
19 the transactions. So once they know the
20 position from that day on they will do
21 pluses and minuses but they keep track
22 in the system of the position of
23 Antwerp Diamond Bank. Once in a while
24 we reconcile to make sure that it is
25 still the same position.
235: 1 Q. Is that what's meant by the next
2 sentence "KBC will keep records of the
3 movements on the diamond clients
4 account, etcetera?"
5 A. Yes.
6 Q. So KBC is playing a
7 recordkeeping or administrative
8 function with respect to the borrowing
9 that Lazare is making under the credit
10 facility. Is that correct?
11 A. Of Antwerp Diamond Bank, yes.
12 Q. And when KBC receives a payment
13 request, Mr. Loral, does it verify that
14 it's a -- that it's proper and
15 appropriate to make a payment to the

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Pg: 233 Ln: 5 - Pg: 242 Ln: 14 continued...

Annotation:

235:16 designated recipient? In other words,
17 does it perform an anti-money
18 laundering function of some kind?
19 A. Yes. Automatically that's KBC's
20 duty and they have the department
21 involved and they will also verify that
22 it's a diamond transaction. That's
23 something that we requested because we
24 want to avoid the client would misuse
25 the funds for something else.
236: 1 Q. And moving down to the next
2 bullet point, you see the reference to
3 the chief representative of ADB in New
4 York?
5 A. Yes.
6 Q. Okay. Who is that or who was
7 that?
8 A. Peter Driesen. That's -- yes.
9 Yes. Yes.
10 Q. So in a situation in which the
11 requested payment exceeds the available
12 credit under the line of credit KBC
13 doesn't process the payment but rather
14 notifies Mr. Driesen and the Visa
15 department of ADB?
16 A. Yes.
17 Q. And it says the next sentence,
18 "The latter takes the necessary steps
19 to get the payment approved by the
20 appropriate people within ADB." Who
21 are the appropriate people within ADB?
22 A. Credit Committee.
23 Q. Credit Committee. Okay. And then
24 KBC and the chief representative are
25 notified of the bank's decision. Is
237: 1 that the procedure here?
2 A. Yes.
3 Q. Okay. And assuming the decision
4 is favorable or there is sufficient
5 credit, is it correct on your reading
6 of this agreement that KBC debits the
7 diamond client's account, in this case
8 that would be the Lazare account at the
9 New York branch of KBC?
10 A. Yes.
11 Q. And carries out the payment
12 instruction?
13 A. Yes.
14 Q. And carries out the payment
15 instruction by wire transferring the

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Transcript: [9/28/2015] Loral, Philippe

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Pg: 233 Ln: 5 - Pg: 242 Ln: 14 continued...

Annotation:

237:16 monies requested -- the monies funding
17 the loan requested by the customer?
18 A. It's a long one. Sorry.
19 Q. How does it carry out the
20 payment instructions?
21 A. Well, like you said, the payment
22 instruction will be effectuated
23 resulting in a debit on the account at
24 KBC, and that debit will be funded by
25 the pooling account.
238: 1 Q. So KBC provides the money to
2 effectuate the wire transfer the
3 payment that's requested?
4 A. Yes.
5 Q. And it then reconciles that
6 payment with ADB's pooling account?
7 A. Yes.
8 Q. Dropping down to the next bullet
9 point that references the MT 900 form,
10 do you see the sentence, "KBC also adds
11 information about the beneficiary of
12 the payment?"
13 A. Yes.
14 Q. Where does KBC get that
15 information from?
16 A. From the payment order.
17 Q. Is this the anti-money
18 laundering function you described
19 earlier?
20 A. No.
21 Q. Why is KBC adding information
22 about the beneficiary of the payment in
23 its message to ADB?
24 A. Because ADB wants to know -- ADB
25 is financing, ADB wants to follow what
239: 1 happens with the financing facility and
2 the credit.
3 Q. So it gets that information from
4 KBC?
5 A. Yes.
6 Q. And KBC, in turn, gets it from
7 the customer?
8 A. Yes.
9 Q. And then the last bullet point,
10 "ADB receives this report and debits
11 the diamond customer's account in its
12 books against the pooling account."
13 That is the New York pooling account?
14 A. Yes.
15 Q. And moving to paragraph 2, do

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Pg: 233 Ln: 5 - Pg: 242 Ln: 14 continued...

Annotation:

239:16 you see the sentence that reads, "KBC
 17 will accept and registrate all in
 18 coming funds via the customary
 19 channels, etcetera, in favor of the
 20 diamond clients." Do you see that
 21 sentence?
 22 A. Yes.
 23 Q. Is this sentence referring to or
 24 does it include deposits made by
 25 customers of Lazare Kaplan into the
 240: 1 Lazare bank account at KBC New York?
 2 A. Yes.
 3 Q. So the sales proceeds of
 4 diamonds sold by Lazare would be an
 5 example of incoming funds that are
 6 deposited into Lazare's bank account at
 7 KBC New York. Is that correct?
 8 A. Yes. That's correct.
 9 Q. What does "registrate" mean, by
 10 the way, as it's used in this document?
 11 A. Book, make a booking.
 12 Q. Make a booking?
 13 A. Yes. Make an entry. I think you
 14 use the word "entry".
 15 Q. And again, turning to the bullet
 16 point in paragraph 2, KBC credits the
 17 customer's account in its books, so
 18 that would be the bank account, the
 19 customer's bank account at the New York
 20 branch of KBC?
 21 A. Yes.
 22 Q. That would be the Lazare bank
 23 account in our case?
 24 A. Yes.
 25 Q. And then KBC sends a message to
 241: 1 ADB, giving ADB information about the
 2 transaction?
 3 A. Yes.
 4 Q. Okay. And you see the next
 5 sentence that reads, "KBC also adds
 6 information about the ordering customer
 7 of the payment." What information is
 8 referred to in that sentence?
 9 A. That's a counterparty, the
 10 customer of Lazare, which made the
 11 payment and the information is the name
 12 of the ordering company.
 13 Q. And does KBC, again, have an
 14 anti-money laundering function in
 15 obtaining that information?

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Issue Filter: Depo Designation

Pg: 233 Ln: 5 - Pg: 242 Ln: 14 continued...

Annotation:

241:16 A. Yes. To check everything by
17 compliance.
18 Q. And does KBC share the
19 information it obtains about the
20 ordering customer with ADB under this
21 paragraph?
22 A. Well, it's the information in
23 the SWIFT message. So we have the
24 information, we received the
25 information, yes.
242: 1 Q. So ADB's information about the
2 payee and the payor in transactions, in
3 Lazare transactions, comes from KBC.
4 Is that correct?
5 A. Yes.
6 Q. So -- and in the last sentence
7 where it says, "ADB receives this
8 report and credits the diamond client's
9 account in its books against the KBC
10 pooling account," does that mean ADB is
11 making a book entry to reflect the
12 transaction?
13 A. Well, yes, we adjust the balance
14 of the client in our books.

Pg: 248 Ln: 5 - Pg: 249 Ln: 2

Annotation:

248: 5 Q. And dropping down to the second
6 paragraph in paragraph 3, do you see
7 the reference to "KBC New York granting
8 ADB an overnight placement on money
9 market rates?"
10 A. Yes.
11 Q. Can you explain that sentence?
12 A. Due to the time difference it
13 could happen that when ADB was already
14 closed and KBC was still operating that
15 they would pool more than there was in
16 the pooling account. So Antwerp Diamond
17 Bank had the credit facility with KBC
18 Bank. So the pooling account of
19 Antwerp Diamond Bank could go negative
20 and that would be the price we pay for
21 it. KBC would fund, grant us a credit
22 line on that pooling account.
23 Q. When you say that Antwerp
24 Diamond Bank had a credit facility with
25 KBC, do you mean the New York branch of
249: 1 KBC?

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Pg: 248 Ln: 5 - Pg: 249 Ln: 2 continued...

Annotation:

249: 2 A. Yes.

Pg: 250 Ln: 8 - 18

Annotation:

250: 8 Q. Did ADB pay tax to the U.S.
9 Government on interest or fees that it
10 earned on the loans to Lazare Kaplan?
11 A. Could you please repeat it?
12 Q. Did ADB pay interest to the U.S.
13 Government on -- I'm sorry -- pay tax
14 to the U.S. Government on interest or
15 fees that it received from Lazare in
16 connection with the loans under the
17 credit facility?
18 A. Yes.

Pg: 252 Ln: 23 - Pg: 253 Ln: 2

Annotation:

252:23 Q. And did ADB take the position
24 with the U.S. Government that the loan
25 activities in New York were effectively
253: 1 connected to New York?
2 A. Yes.

Pg: 259 Ln: 2 - 7

Annotation:

259: 2 Q. So would you turn back one tab
3 in your binder, your exhibit binder,
4 Mr. Loral, to Exhibit 56, which is the
5 letter that you wrote to Greg Boston on
6 or about September 4, 2000 that we
7 talked about earlier this morning.

Pg: 259 Ln: 2 - Pg: 260 Ln: 13

Annotation:

259: 2 Q. So would you turn back one tab
3 in your binder, your exhibit binder,
4 Mr. Loral, to Exhibit 56, which is the
5 letter that you wrote to Greg Boston on
6 or about September 4, 2000 that we
7 talked about earlier this morning.
8 And directing your attention to
9 the first paragraph of the letter in
10 section 1, do you see the sentence that
11 begins "Client signs a document in
12 which he gave the authorization to KBC

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Pg: 259 Ln: 2 - Pg: 260 Ln: 13 continued...

Annotation:

259:13 NY and to Antwerpen Diamond Bank NV
14 Head Office ADB HO to exchange accounts
15 and credit facility information
16 concerning his relations with both
17 banks, etcetera." Do you see that
18 sentence?
19 A. Yes.
20 Q. What is the document signed or
21 to be signed by the client that you
22 refer to in this part of your letter,
23 is that Plaintiff's Exhibit 55?
24 A. I think so, yes.
25 Q. And does that document
260: 1 constitute an authorization given by
2 Lazare to KBC New York to exchange
3 information with ADB?
4 A. He gave the document to ADB
5 mentioning that he agreed, so I think
6 for KBC it's enough to know that they
7 can do it.
8 Q. Was it your intention in
9 preparing Plaintiff's Exhibit 55 that
10 it would comply with the procedures set
11 forth in this letter that you wrote to
12 Mr. Boston?
13 A. Yes.

Pg: 260 Ln: 8 - Pg: 261 Ln: 2

Annotation:

260: 8 Q. Was it your intention in
9 preparing Plaintiff's Exhibit 55 that
10 it would comply with the procedures set
11 forth in this letter that you wrote to
12 Mr. Boston?
13 A. Yes.
14 Q. Why did you send this letter to
15 Mr. Boston? What was the purpose of the
16 letter?
17 A. To make sure that we don't make
18 any mistake in the way we work.
19 Finally, Greg Boston represents another
20 bank, we are not colleagues, I mean
21 directly in the same bank, so we want
22 the team to agree with exactly and that
23 way we didn't forget anything.
24 It was the first time that we
25 would practically operate, as it's
261: 1 mentioned here, the first time that the
2 client would use the system.

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Pg: 284 Ln: 6 - Pg: 285 Ln: 9

Annotation:

284: 6 Q. Okay. The dollar denominated
7 transactions of other clients of ADB
8 were also executed through the ADB
9 pooling account at KBC New York,
10 correct?
11 MS. GREDD: Objection. Asked and
12 answered.
13 A. Yes. From the clients that were
14 in the branch New York.
15 Q. All monies transferred by ADB
16 clients to ADB in dollar denominated
17 transactions from anywhere in the world
18 were executed through the ADB pooling
19 account at KBC New York?
20 MS. GREDD: Objection. Asked and
21 answered.
22 Q. Correct?
23 A. Would you please --
24 Q. All monies transferred by ADB
25 clients to ADB in dollar denominated
285: 1 transactions from anywhere in the world
2 were executed through the ADB pooling
3 account at KBC New York?
4 MS. GREDD: Objection. Asked and
5 answered.
6 A. Only the clients from the New
7 York branch. The pooling account was
8 only for the clients of the New York
9 branch.

Pg: 288 Ln: 19 - Pg: 289 Ln: 4

Annotation:

288:19 Q. If a client of ADB made a dollar
20 denominated transfer to a company
21 outside of the United States, would
22 that transfer be executed through the
23 ADB pooling account in New York?
24 A. The same point, if it's a client
25 from the New York operation, yes. If
289: 1 not, no. And even clients from Antwerp
2 Diamond Bank Head Office in Belgian
3 would do such a transaction then the
4 pooling account is not involved.

Pg: 291 Ln: 23 - Pg: 292 Ln: 16

Annotation:

291:23 Q. When Lazare received a payment
24 of diamond sales proceeds into the KBC

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Pg: 291 Ln: 23 - Pg: 292 Ln: 16 continued...

Annotation:

291:25 New York account, did those funds ever
292: 1 move outside of New York?
2 A. Yes. Those funds would be
3 transferred via the pooling account on
4 Lazare's account in Belgium and he
5 would see that on his statement because
6 his balance would become less high, as
7 a big balance.
8 Q. You are referring to the entry
9 or notation in the statement. I'm
10 talking about the dollars.
11 A. The amounts are transferred on
12 the account against an account of the
13 bank, and but dollars are held in the
14 United States as for the whole world.
15 That's why also the United States can
16 see everything that happens in dollars.

Pg: 294 Ln: 3 - Pg: 295 Ln: 20

Annotation:

294: 3 Did you, yourself, clearly
4 explain to Mr. Moryto that Lazare would
5 have to open a bank account in Belgium
6 to obtain a line of credit? Do you
7 recall a conversation?
8 A. No. I don't recall exact -- any
9 conversation of 15 years ago. I'm
10 sorry. I cannot recall such a
11 conversation.
12 Q. Do you recall any writing in
13 which Mr. Moryto was advised that
14 Lazare would need to open a bank
15 account in Belgium in order to obtain a
16 line of credit or a credit facility?
17 A. No. No. Honestly, I don't recall
18 ever having done that to any client
19 because it was going without saying
20 that you cannot have a credit facility
21 without having an account.
22 Q. Did Mr. Moryto ever say anything
23 to you that would indicate to you that
24 he understood that Lazare would need to
25 have a bank account in Belgium?
295: 1 A. No. I don't remember anything
2 like that.
3 Q. And did you find Mr. Moryto to
4 be an honest person in your dealings
5 with him?
6 A. Yes.

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Pg: 294 Ln: 3 - Pg: 295 Ln: 20 continued...

Annotation:

295: 7 Q. Do you believe him to be a
8 person of the highest integrity?
9 A. When?
10 Q. During the relevant period of
11 time.
12 A. Yes. Yes. Until when is the
13 relevant period?
14 Q. 10 years, 2000 to 2010.
15 A. Well, in my opinion as long as I
16 was working with him, yes.
17 Q. Did you ever tell Mr. Moryto
18 that ADB could meet Lazare's banking
19 needs in New York?
20 A. In certain words, yes.

Pg: 296 Ln: 17 - Pg: 297 Ln: 8

Annotation:

296:17 Q. Did you tell Mr. Moryto in
18 December of 2000 that KBC New York
19 could open a bank account for Lazare?
20 A. I don't remember that I told him
21 that and certainly not at that date,
22 but that was probably the purpose of
23 the whole setup. That's what we
24 discussed.
25 Q. Do you remember whether anyone
297: 1 at ADB discussed with Mr. Moryto the
2 possibility of Lazare opening a bank
3 account at the New York branch of KBC?
4 A. No. I don't remember the
5 conversations like -- I can only see
6 now factually what happens, so I can
7 assume that we have been discussing
8 about it.

Pg: 297 Ln: 9 - 21

Annotation:

297: 9 Q. Was the New York office of ADB a
10 startup operation in December of 2000?
11 A. Sorry?
12 Q. Was it a new office for ADB?
13 A. In New York?
14 Q. Yes, in New York.
15 A. Yes. The rep office was new. We
16 got the license from the authorities
17 end of '99 and so, beginning of 2000 we
18 just opened the office, we rented a
19 place, I think Peter Driesen was there,

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Pg: 297 Ln: 9 - 21 continued...

Annotation:

297:20 he got the license to live in New York.
21 Yeah, we were quite new.

Pg: 297 Ln: 22 - Pg: 299 Ln: 9

Annotation:

297:22 Q. Did you, yourself, ever discuss
23 with Mr. Moryto how the KBC New York
24 bank account would operate vis- -vis
25 the credit facility?
298: 1 A. I don't recall, of course, such
2 conversations but I honestly assumed
3 that I went personally in the date with
4 him. Normally with such clients I
5 would go myself to explain what we have
6 as product, how it works. It's not so
7 simple to explain to a client because
8 it's a bit special, so I would either
9 go myself or I would join the local
10 guy, Peter Driesen.
11 Q. Do you know when Lazare was
12 first told that the bank account at KBC
13 New York would be a zero balance
14 account?
15 A. No. I don't remember that.
16 Q. Did you, yourself, make such a
17 statement to anyone at Lazare at or
18 about the time that Plaintiff's Exhibit
19 55 was signed, which for the record, is
20 May 31, 2001?
21 A. I cannot tell you anything about
22 -- about in detail conversation, that
23 is too long ago, but I reasonably
24 assumed that I explained the setup to
25 Bill Moryto, maybe together with Peter
299: 1 Driesen, maybe alone, that I cannot
2 remember but I like to go to clients
3 myself to explain this. The signature
4 of documents, that normally I didn't do
5 myself, that I delegated to people in
6 New York. And explaining the zero
7 balance was part of the whole setup,
8 which is important because it's -- this
9 is part of the way it would work.

Pg: 325 Ln: 12 - Pg: 329 Ln: 2

Annotation:

325:12 Q. Would you turn to tab 84?
13 Does this document reflect the

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Pg: 325 Ln: 12 - Pg: 329 Ln: 2 continued...

Annotation:

325:14 situation you were describing with De
15 Beers?
16 (Plaintiff's Exhibit 84, was
17 received and marked on this date for
18 identification.)
19 A. Yes.
20 Q. And is it the case that De Beers
21 began to require that payments for
22 sites come directly from the site
23 holder?
24 A. From a main company of the
25 group, from the main company of the
326: 1 group.
2 Q. Did you discuss with Mr. Moryto
3 how to respond to that change in rules
4 by De Beers in terms of where the
5 payments would come from?
6 A. I vaguely remember the whole
7 issue. I suppose finally at the end of
8 the day I spoke with Bill, here I say
9 it was Oakley but I mean I don't deny
10 that I didn't speak about because
11 probably even by phone we had a lot of
12 discussions.
13 Q. Do you recall that Mr. Moryto
14 wanted the payment to come from LKB,
15 its Belgian subsidiary, and not from
16 LKI or Lazare?
17 A. LKB had the credit facility with
18 the modality to finance the DTC, the
19 base sides. So normally the payments
20 were always done by LKB, but now the
21 base wanted to see the money coming
22 from LKI and that was an issue.
23 Q. And what was the solution that
24 was put in place by ADB and Lazare to
25 deal with this situation?
327: 1 A. Let me, please, read the second
2 paragraph.
3 (Whereupon, the Deponent reviews
4 the document.)
5 A. So the first -- there were two
6 options here. First option was that he
7 would reduce the facility of Lazare
8 Belgium and shift it by increasing the
9 facility of Lazare which could be done
10 but that takes time. We would have to
11 go to a Credit Committee and obtain
12 that.
13 A simpler solution is that LKB

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Pg: 325 Ln: 12 - Pg: 329 Ln: 2 continued...

Annotation:

327:14 would send the site payment to LKI, a
15 book transfer, which we could do
16 directly in Belgium and then the
17 payment would be forwarded to the DTC.
18 So the base would be happy and they
19 could get the money from the channel
20 they wanted but the problem would be
21 that the Lazare Belgium modality would
22 not be followed. The modality didn't
23 agree to send money to Lazare, it was
24 to send money to the base, and that was
25 something that we had to overrule
328: 1 internally.
2 Q. So did ADB put in place an
3 internal arrangement whereby a transfer
4 was made from Lazare Kaplan Belgium's
5 credit facility to Lazare's credit
6 facility on a bookkeeping basis?
7 A. I don't remember how we did it,
8 to be honest, but I assume the first
9 payment -- to be practical, Lazare --
10 the bank authorized Lazare Belgium to
11 pay to Lazare international and then to
12 the base, because finally we -- don't
13 forget the base was a former
14 shareholder of ADB, so we trusted that
15 the base was an honest supplier and
16 would give the goods so we were not
17 really afraid of this type of
18 transactions and the value of the goods
19 was strongly there also.
20 So Lazare would receive the
21 goods, we probably would have asked
22 Lazare to give the goods to Lazare
23 Belgium and because we had to match
24 afterwards the withdrawal from Lazare
25 Belgium but you know as a small bank we
329: 1 did manual interventions to help the
2 clients.

Pg: 332 Ln: 9 - Pg: 336 Ln: 6

Annotation:

332: 9 Q. Would you turn to tab 58 and
10 tell me if you can identify the two
11 pages that are there?
12 (Plaintiff's Exhibit 58, was
13 received and marked on this date for
14 identification.)
15 A. Only 58?

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Pg: 332 Ln: 9 - Pg: 336 Ln: 6 continued...

Annotation:

332:16 Q. Yes. Exhibit 58. What are the
17 transactions that are described in
18 these exhibits, to the extent you can
19 tell from the documents or recollect
20 independently?
21 A. I don't recollect now the
22 account number. Is that the account
23 number that we agreed on for the
24 pooling account?
25 Q. These documents purport to be
333: 1 KBC statements attributable to the
2 pooling account.
3 A. Okay. I don't exactly understand
4 this transaction, but which is the
5 question about the transaction?
6 Q. Well, can you tell from these
7 documents -- can you identify from
8 these documents the party making the
9 transfer?
10 A. I see KT Collection.
11 Q. On the first page?
12 A. Yes.
13 Q. And on the second?
14 A. DD Manufacturing.
15 Q. And where is the transfer going?
16 A. It's both a debit, so that's why
17 I don't understand exactly. Goes to the
18 -- first one goes -- I see has a
19 counterpart. Finally I see the name of
20 Lazare Kaplan, LKI and the second one I
21 see also LKI.
22 Q. And is the transfer being --
23 where is the transfer being directed?
24 Where are they being made, to ADB or to
25 somewhere else?
334: 1 A. I honestly don't understand this
2 transaction. I'm sorry.
3 Q. Well, I believe you testified
4 earlier that if an ADB client who was
5 not a client of the New York office of
6 ADB transferred U.S. dollars to the
7 bank account of another party, who was
8 not a client of KBC New York, then the
9 transaction would not go through the
10 pooling account.
11 A. Yes.
12 Q. Is that correct?
13 A. Yes.
14 Q. It would only go through ADB's
15 clearing account at KBC New York?

TextMap Annotation Digest Report

Case Name: Plaintiff Lazare Kaplan International Inc.'s Deposition Designations for Philippe Loral 2/16/2016

Transcript: [9/28/2015] Loral, Philippe

Issue Filter: Depo Designation

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Annotation:

334:16 A. Yes.
17 Q. And do these two transactions
18 which appear on the bank statements
19 pertaining to the pooling account of
20 ADB at KBC New York suggest to you that
21 the transaction went through the
22 pooling account?
23 A. I see the pooling account. More
24 than that I cannot say. If it was a
25 credit, it would be easy. I would see
335: 1 money coming in on the Lazare account,
2 but this transaction, I don't
3 understand. I'm sorry.
4 Q. Are you -- are you familiar with
5 the company's KT Collection and DD
6 Manufacturing?
7 A. I know the companies, yes.
8 Q. These are companies of
9 affiliated with Erez Daleyot?
10 A. Yes.
11 Q. Were they clients of ADB?
12 MS. GREDD: Objection. That is
13 beyond the scope of this deposition.
14 Again, the scope of the deposition is
15 the operational and contractual
16 relationships between ADB, KBC and
17 Lazare, not third parties.
18 MR. SULLIVAN: Well, I disagree.
19 We're asking the witness about
20 documents with a reference to Lazare on
21 them dealing with the very pooling
22 account of ADB at KBC New York that
23 we've been discussing for three hours.
24 MS. GREDD: And the witness has
25 stated that he cannot make heads or
336: 1 tails out of the document that you've
2 shown him. So you're now moving onto
3 general questions about whether
4 particular entities were clients of ADB
5 and that is beyond the scope of this
6 deposition.